IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Patent Application of

UNDERSTEIN   Atty. Ref.: 2802-5 (AMK)

Serial No. 09/617,065   TC/A.U.: 3694

Filed: July 13, 2000   Examiner: D. Greene

For: WEB-BASED ACCOUNT MANAGEMENT

* *

June 13, 2007

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellant hereby **appeals** to the Board of Patent Appeals and Interferences from

the last decision of the Examiner.

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(I)   <u>REAL PARTY IN INTEREST</u>

The real party in interest is eDEPOSIT Corporation.

(II)   **RELATED APPEALS AND INTERFERENCES**

The Appellant, the undersigned, and the assignee are not aware of any related appeals, interferences, or judicial proceedings (past or present), which will directly affect or be directly affected by or have a bearing on the Board's decision in this Appeal.

(III)   STATUS OF CLAIMS

Claims 1-9 are on appeal in the present application. Claims 1-9 have been rejected. No claims have been substantively allowed.

(IV)   STATUS OF AMENDMENTS

No amendments have been filed since the date of the outstanding Office Action.

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(V)   SUMMARY OF CLAIMED SUBJECT MATTER

The invention relates to an account management system for Internet commerce applications and, more particularly, to a system for qualifying a participant in a transaction over the Internet. The system acts as an intermediary or third-party participant that provides an Internet account/credit management system to eliminate the potential for fraud or abuse in an Internet-conducted transaction.

The specification initially describes the site architecture and system method with reference to an application to an auction company or Internet auction venue. In this context, as shown in Fig. 2, the system serves as an intermediary between sellers and bidders participating in an auction or other transaction over the Internet, and between the Internet auction site and the participants (sellers and bidders) in an auction. The system establishes and maintains bidder funding accounts to ensure sellers that bidder funds are available for any required deposits and bid amounts. The Internet auction site enlists the system to require bidders to maintain a bidder funding account, and the system tracks each bid of every auction simultaneously. See page 10, line 13 - page 11, line 2.

The system of the invention could thus be readily implemented into any transaction where qualification is desirable, such as between a vendor and its customers. In this context, when a participant desires to purchase a product or otherwise enter a transaction with a vendor, similar to the auction process of the invention when the participant is the high bidder, a hold is placed on the participant's consumer funding account as in step S13. See Fig. 4. If a deposit is required to enter into the transaction, a first portion of the funding account is reserved corresponding to an amount of the deposit.

If no deposit is required, only a second portion of the funding account corresponding to transaction costs may be reserved. This function is similar to a letter of credit or buyer qualification or the like for potential buyers. The system assures the vendor that identified buyers have met deposit requirements. See page 17, line 14 - page 18, line 3.

When it is determined that the transaction is complete, as in step S14, the purchase is accepted. Subsequently, the held funds can be transferred to the vendor directly from the funding account or alternative arrangements can be made. See page 18, lines 4-7.

The process of establishing an account is described with reference to Fig. 3. To establish an account, the user is prompted to complete a registration form via a link 26. Once completed, the user selects a user ID and password and is assigned an account number. The user can deposit funds via a link 28 by any suitable means, and funds are deposited into a system server bank account and tracked through a server database. Users can track and monitor their account at any time via a link 30, e.g., to determine an amount of interest earned or the status of holds on the account. See page 11, lines 3-22.

A balance in the account can be an amount of unreserved funds deposited in the account and/or an amount of unreserved credit in the account according to a line of credit provided to the user. See page 12, lines 5-8.

If the registered user intends to purchase an item requiring a deposit, the user is prompted to enter an identification number at the participating site, and through the system, it is determined if the deposit amount is available in the user's account. If so, the system reserves a portion of the account according to a transaction parameter, which parameter is determined by one of the qualifying system, the buyer or the seller. See

page 13, lines 13-21. See also page 13, line 22 - page 16, line 18.

INDEPENDENT CLAIMS

1. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant establishing a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system; [page 11, lines 8-20]

(b) the participant entering a transaction requiring a transfer of funds from the participant to a vendor; [page 13, line 22 – page 14, line 9]

(c) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and [page 17, lines 14-21]

(d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. [page 17, line 21 – page 18, line 3]

4. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant establishing a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system; [page 11, lines 8-20]

(b) the participant entering a transaction requiring a transfer of funds from the participant to a vendor; [page 13, line 22 – page 14, line 9]

(c) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor, wherein step (c) is practiced by reserving a first portion of the consumer funding account corresponding to a required deposit and reserving a second portion of the consumer funding account corresponding to an amount of funds required to complete the transaction; and [page 17, lines 14-25]

(d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. [page 17, line 21 – page 18, line 3]

7. A computer system for effecting qualifying of a participant over a global network in a transaction requiring a transfer of funds from the participant to a vendor, the computer system comprising:

at least one user computer running a computer program that requests information according to a transaction inquiry input by the participant; and [page 5, line 9 – page 10, line 12; and page 13, line 22 – page 14, line 9]

a system server running a server program, the at least one user computer and the system server being interconnected by a computer network, the system server determining whether the participant has established a consumer funding account by depositing funds in the consumer funding account [page 11, lines 8-20], and if the participant has established the consumer funding account, the system server reserving a

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portion of the consumer funding account according to a transaction parameter determined by at least one of the system server , the participant or the vendor [page 17, lines 14-21], wherein the system server administers the consumer funding account, and wherein the system server qualifies the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. [page 17, line 21 – page 18, line 3; and page 5, line 9 – page 10, line 12]

8. (Previously Presented) A computer program embodied on a computer-readable medium for qualifying a participant via a qualifying system over a global network in a transaction requiring a transfer of funds from the participant, the computer program comprising:

means for the participant to establish a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system; [page 5, line 9 – page 10, line 12; and page 11, lines 8-20]

means for the participant to enter a transaction requiring a transfer of funds from the participant to a vendor; [page 5, line 9 – page 10, line 12; and page 13, line 22 – page 14, line 9]

means for the qualifying system to reserve a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and [page 5, line 9 – page 10, line 12; and page 17, lines 14-21]

means for the qualifying system to qualify the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. [page 5, line 9 – page 10, line 12; and page 17, line 21 – page 18, line 3]

9. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant entering a transaction requiring a transfer of funds from the participant to a vendor; [page 13, line 22 – page 14, line 9]

(b) the qualifying system determining whether the participant has established a consumer funding account, wherein if the participant has not established the consumer funding account, the qualifying system providing the participant an opportunity to establish the consumer funding account, the consumer funding account to be administered by the qualifying system; [page 11, lines 3-15]

(c) after establishing the consumer funding account, the qualifying system continuing with the transaction; [see FIG. 4, steps S3-S6]

(d) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and [page 17, lines 14-21]

(e) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. [page 17, line 21 – page 18, line 3]

(VI) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1.   Whether claims 1-9 are unpatentable under 35 U.S.C. §103(a) over U.S.

Patent No. 6,240,396 to Walker et al. in view of U.S. Patent No. 7,020,632 to Kohls et al.

(VII) ARGUMENT

1. Claims 1-9 are not unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 6,240,396 to Walker et al. in view of U.S. Patent No. 7,020,632 to Kohls et al.

The present invention in claims 1 and 9 encompasses a method of qualifying a participant over a global network in a transaction requiring the transfer of funds from the participant using a qualifying system. Claim 7 defines a computer system for effecting qualifying of a participant in such a transaction, and claim 8 defines a computer program embodied on a computer-readable medium for qualifying a participant. As such, the method, system and program of the invention endeavor to encompass a precursor to an actual transfer of funds to complete the transaction. The qualification in fact typically enables participation in the transaction without necessarily including any funds transfer.

With regard to claim 1, the Office Action references sections in the Walker patent that purportedly meet the features of the claimed invention. As discussed in more detail below, Walker lacks any teaching or suggestion of a qualifying method wherein a consumer funding account is administered by a qualifying system. Rather, Walker utilizes a user's credit card, which is administered by the credit card issuer. At least this fundamental difference between the Walker patent and the claimed invention renders improper the outstanding rejection.

Walker discloses a method and system for electronically facilitating buying and selling tickets for an event. Registered users supply credit card information so that offers to purchase tickets can be made as "guaranteed" purchase offers, and so that ticket sellers can be held accountable in the event that the product is not delivered. With regard to claim 1, the Office Action contends that Walker discloses step (a) referring to column 7,

line 49 through column 8, line 63 and Fig. 7A. Step (a) in claim 1, however, defines a

step of the participant establishing a consumer funding account <u>by depositing funds</u> in the

consumer funding account . . . .. In this context, as noted above, Walker does not require a

user to deposit funds in order to register with the system; rather, Walker requires that the

user supply credit card information. See col. 4, lines 1-4 describing credit card processor

230; col. 4, lines 12-14; col. 5, lines 8-12; col. 6, lines 15-17; col. 7, lines 61-65; col. 11,

lines 11-13; col. 12, lines 47-48; and others.

Moreover, claim 1 recites that the consumer funding account is administered by

the qualifying system. The Walker system, through which users are able to sell and

purchase event tickets, does not in any manner even remotely administer a consumer

funding account as claimed, which in the context of the Walker patent is the user's credit

card. As would be apparent to those of ordinary skill in the art, the user's credit card is

administered by the credit card issuer.

The Office Action recognizes that Walker lacks a step of qualifying the participant

for the transaction if the consumer funding account satisfies conditions of the transaction

parameter. The Office Action contends, however, that this subject matter is disclosed in

the Kohls patent and that it would have been obvious to modify the Walker system to

include such qualifying "to have a qualifying system and to modify in Walker because

such a modification would allow Walker's system to have a qualification process to

include the deposit of funds or other assets with a system prior to any trade by the

customer receiving a confirmation through the system that the customer has the right to

sell and that the customer has sufficient funds to make the bid." It is not entirely clear

what is meant by that statement, but regardless, without conceding this conclusion, the

Walker system utilizes user credit cards to secure the transactions, and user qualification

is not necessary. Buyers are required to submit guaranteed purchase offers, and sellers

are required to provide access to a credit card in the event of default (see col. 8, lines 10-

13 re seller). As such, Appellant respectfully submits that there is no suggestion in

Walker to make the proposed modification. See, e.g., *In re Fritch*, 972 F.2d 1260, 23

USPQ 2d 1780, 1783–84 (Fed. Cir. 1992), where the Federal Circuit held that "the mere

fact that the prior art may be modified in the manner suggested by the Examiner does not

make the modification obvious unless the prior art suggested the desirability of the

modification."

With regard to claim 2, the Office Action references Walker at column 7, line 58

through column 8, line 13. This section in Walker, however, does not disclose that a

transaction parameter for reserving the user's credit line is a required deposit. The only

reference to an amount secured via the user's credit card is disclosed in column 10, lines

53-56, describing that "[an] authorized amount field represents the amount of the user's

credit which is reserved to 'back up' the offer and is usually equal to the total transaction

amount" (emphasis added).

Claim 4 recites related subject matter defining a method of qualifying a participant

over a global network in a transaction requiring a transfer of funds from the participant

using a qualifying system. Like claim 1, claim 4 includes a step of the participant

establishing a consumer funding account by depositing funds in the consumer funding

account, the consumer funding account to be administered by the qualifying system. As

noted above, at least this sibject matter is lacking in Walker and Kohls, taken singly or in combination. Step (c) recites that the qualifying system "reserves a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor, <u>wherein step (c) is practiced by reserving a first portion of the consumer funding account corresponding to a required deposit and reserving a second portion of the consumer funding account corresponding to an amount of funds required to complete the transaction</u>." As also noted above, Walker lacks any reference to reserving any amount corresponding to "a required deposit." Walker additionally lacks any reservation of first and second parts of a consumer funding account.

The Office Action recognizes this deficiency in Walker, but contends that this subject matter is disclosed in Kohls, referring to col. 16, lines 36-57. This section in the Kohls patent, however, does not describe any reservation of first and second portions of a consumer funding account, nor does this section reference a portion of a consumer funding account corresponding to a required deposit. Rather, this section in the Kohls patent describes steps carried out on receipt of a bid order. Kohls describes that a manager checks the trader's account and "reserves or withdraws the funds needed to complete the trade . . .." A "deposit" for a transaction is not disclosed or suggested. Additionally, first and second portions of a consumer funding are not disclosed or suggested.

Walker and Kohls additionally lack the claimed qualifying step as discussed above with regard to claim 1.

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With regard to claims 5 and 6, Appellant submits that these dependent claims are allowable at least by virtue of their dependency on an allowable independent claim.

Independent claim 7 defines a computer system for effecting qualifying of a participant over a global network in a transaction requiring a transfer of funds from the participant to a vendor. A system server determines whether the participant has established a consumer funding account by depositing funds in the consumer funding account. As noted above, Walker lacks a consumer funding account that is established by depositing funds. Claim 7 also recites that the system server administers the consumer funding account. As discussed above, even assuming a credit card can be considered a "consumer funding account" as claimed, which Appellant does not, the Walker system does not administer the user's credit card; rather, the credit card is administered by the credit card issuing company. Still further, claim 7 recites that the system server qualifies the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. As also discussed above, this subject matter is lacking in Walker, and the Kohls patent does not correct this deficiency.

Independent claim 8 defines a computer program embodied on a computer-readable medium for qualifying a participant via a qualifying system over a global network in a transaction requiring a transfer of funds from the participant. The computer program includes structure for carrying the steps defined in claim 1. As such, Appellant respectfully submits that claim 8 is allowable for reasons similar to those discussed with regard to claim 1.

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Independent claim 9 recites, among other things, that the consumer funding account is administered by the qualifying system. As discussed above, this subject matter is also lacking in Walker and Kohls taken singly or in combination.

CONCLUSION

In conclusion it is believed that the application is in clear condition for allowance; therefore, early reversal of the rejections and passage of the subject application to issue are earnestly solicited.

Respectfully submitted,

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(VIII)   CLAIMS APPENDIX

1. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant establishing a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system;

(b) the participant entering a transaction requiring a transfer of funds from the participant to a vendor;

(c) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and

(d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter.

2. A method according to claim 1, wherein the transaction parameter is a required deposit.

3. A method according to claim 1, wherein the transaction parameter is an amount of funds required to complete the transaction.

4. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

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(a) the participant establishing a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system;

(b) the participant entering a transaction requiring a transfer of funds from the participant to a vendor;

(c) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor, wherein step (c) is practiced by reserving a first portion of the consumer funding account corresponding to a required deposit and reserving a second portion of the consumer funding account corresponding to an amount of funds required to complete the transaction; and

(d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter.

5. A method according to claim 1, further comprising releasing the reserved portion of the consumer funding account when the transaction is completed.

6. A method according to claim 1, wherein step (c) is practiced by querying a network website server that maintains the consumer funding account.

7. A computer system for effecting qualifying of a participant over a global network in a transaction requiring a transfer of funds from the participant to a vendor, the computer system comprising:

at least one user computer running a computer program that requests information according to a transaction inquiry input by the participant; and

a system server running a server program, the at least one user computer and the system server being interconnected by a computer network, the system server determining whether the participant has established a consumer funding account by depositing funds in the consumer funding account, and if the participant has established the consumer funding account, the system server reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the system server, the participant or the vendor, wherein the system server administers the consumer funding account, and wherein the system server qualifies the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter.

8. A computer program embodied on a computer-readable medium for qualifying a participant via a qualifying system over a global network in a transaction requiring a transfer of funds from the participant, the computer program comprising:

means for the participant to establish a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system;

means for the participant to enter a transaction requiring a transfer of funds from the participant to a vendor;

means for the qualifying system to reserve a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and

means for the qualifying system to qualify the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter.

9. A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant entering a transaction requiring a transfer of funds from the participant to a vendor;

(b) the qualifying system determining whether the participant has established a consumer funding account, wherein if the participant has not established the consumer funding account, the qualifying system providing the participant an opportunity to establish the consumer funding account, the consumer funding account to be administered by the qualifying system;

(c) after establishing the consumer funding account, the qualifying system continuing with the transaction;

(d) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor; and

(e) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter.

(IX)   <u>EVIDENCE APPENDIX</u>

(NOT APPLICABLE)

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(X)   <u>RELATED PROCEEDINGS APPENDIX</u>

(NOT APPLICABLE)

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